

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

1	Open and Public Meetings Act Revisions	CURRENT LAW	NOTES
2			
3	LONG TITLE	(look for current law provisions in this	(look for explanations and
4	General Description:	column)	issues in this column)
5	This bill recodifies and amends the Open and	↓	↓
6	Public Meeting Act.		
7	Highlighted Provisions:		
8	This bill:		
9	▶ updates statutory language to conform to		
10	current legislative styles;		
11	▶ rennumbers sections;		
12	▶ moves some provisions to different or		
13	new sections and		
14	▶ makes technical changes.		
15	Monies Appropriated in this Bill:		
16	None		
17	Other Special Clauses:		
18	None		
19	<u>List of sections affected:</u>		
20	AMENDS: (or RENUMBERS AND AMENDS)		
21	52-4-1 to 52-4-102 Intent statement		
22	52-4-2 to 52-4-103 Definitions		

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- 23 52-4-3 to 52-4-201 Meeting are Open
24 52-4-4 to 52-4-204 Closed meetings vote to hold
25 52-4-5 to 52-4-205 Closed meeting permitted
26 purposes
27 52-4-6 to 52-4-202 Notice of meetings
28 52-4-7 to 52-4-203 Minutes
29 52-4-7.5 to 52-4-206 Closed meetings records
30 52-4-7.8 to 52-4-207 Electronic meetings
31 52-4-8 to 52-4-302 Suit to void final action
32 52-4-9 to 52-4-303 Enforcement
33 52-4-10 to 52-4-304 Action challenging closed mtgs.
34 Plus amend 6 sections to adjust cross references
35 Plus amend 39 sections to add the word "Act"
36 ENACTS:
37 52-4-101 Chapter title
38 52-4-208 Chance meetings
39 52-4-301 Disruption of meetings
40 REPEALS:
41 Statutory text:
42 Part 1. General Provisions
43 52-4-101. Title.
44 This chapter is known as the "Open and Public

Cross references will be
adjusted in the final draft
of the bill

Add title section

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45 Meetings Act."

46 _

47 ~~[52-4-1]~~ **52-4-102. Declaration of public policy.**

48 ~~[In enacting this chapter, the]~~ (1) The Legislature finds
49 and declares that the state, its agencies and political
50 subdivisions, exist to aid in the conduct of the people's
51 business. _

52 (2) It is the intent of the ~~[law]~~ Legislature ~~[that their~~
53 actions] that the state, its agencies, and its
54 political subdivisions:

55 (a) ~~[be taken]~~ take their actions openly ;
56 and ~~[that their]~~ _

57 (b) conduct their deliberations ~~[be~~
58 conducted] openly.

59

60 ~~[52-4-2]~~ **52-4-103. Definitions.**

61 As used in this chapter:

62 (1) "Anchor location" means the physical location
63 from which:

64 (a) an electronic meeting originates; or

65 (b) the participants are connected.

66 ~~[(+)]~~ (2) "Convening" means the calling of a

52-4-1. Declaration of public policy.

In enacting this chapter, the Legislature
finds and declares that the state, its
agencies and political subdivisions, exist
to aid in the conduct of the people's
business. It is the intent of the law that
their actions be taken openly and that
their deliberations be conducted openly.

Add numbering

52-4-2. Definitions.

As used in this chapter:

Combine definitions from
electronic meetings
section (see former
Section 52-4-7.8) into one
definitions section for the
chapter

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67 meeting of a public body by a person
68 authorized to do so for the express
69 purpose of discussing or acting upon a
70 subject over which that public body has
71 jurisdiction or advisory power .

72 (3) "Electronic meeting" means a public meeting
73 convened or conducted by means of a
74 conference using electronic communications.

75 [(2)] (4) (a) "Meeting" means the convening of
76 a public body, with a quorum
77 present, whether in person or by
78 means of electronic [equipment]
79 communications, for the purpose
80 of discussing or acting upon a
81 matter over which the public body
82 has jurisdiction or advisory power.

83 (b) "Meeting" does not mean:

84 (i) a chance meeting; _
85 (ii) a social meeting; or

86 [(#)] (iii) the convening of a public
87 body that has both
88 legislative and executive

(1) "Convening" means the calling of a
meeting of a public body by a person
authorized to do so for the express
purpose of discussing or acting upon
a subject over which that public body
has jurisdiction.

(2) (a) "Meeting" means the convening
of a public body, with a quorum
present, whether in person or by
means of electronic equipment,
for the purpose of discussing or
acting upon a matter over which
the public body has jurisdiction or
advisory power.

(b) "Meeting" does not mean:

(i) a chance meeting; or
(ii) the convening of a public
body that has both legislative
and executive responsibilities
where no public funds are

Replace telephonic,
telecommunications, or
computer with electronic

Add "social meeting" for
consistency with Section
52-4-208

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responsibilities where no
public funds are
appropriated for
expenditure during the time
the public body is convened
and:

(A) the public body is convened
solely for the discussion or
implementation of
administrative or
operational matters for
which no formal action by
the public body is required;
or

(B) the public body is convened
solely for the discussion or
implementation of
administrative or
operational matters that
would not come before the
public body for discussion
or action.

appropriated for expenditure
during the time the public
body is convened and:

(A) the public body is
convened solely for
the discussion or
implementation of
administrative or
operational matters for
which no formal
action by the public
body is required; or

(B) the public body is
convened solely for
the discussion or
implementation of
administrative or
operational matters
that would not come
before the public body
for discussion or
action.

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111 (5) "Monitor" means to hear or observe, live, by
112 audio or video equipment, all of the public
113 statements of each member of the public body
114 who is participating in a meeting.

115 (6) "Participate" means the ability to communicate
116 with all of the members of a public body, either
117 verbally or electronically, so that each member
118 of the public body can hear or observe the
119 communication.

120 ~~[(3)]~~ (7) (a) "Public body" means any
121 administrative, advisory, executive,
122 or legislative body of the state or
123 its political subdivisions that:
124 (i) consists of two or more
125 persons;
126 (ii) expends, disburses, or is
127 supported in whole or in
128 part by tax revenue; and
129 (iii) is vested with the authority
130 to make decisions regarding
131 the public's business.
132 (b) "Public body" does not include ~~[any]~~ a:

Rewrite definition of
"monitor" to combine
hearing and seeing
subsections to "hear or
observe"

(3) (a) "Public body" means any
administrative, advisory,
executive, or legislative body of
the state or its political
subdivisions that:
(i) consists of two or more
persons;
(ii) expends, disburses, or is
supported in whole or in part
by tax revenue; and
(iii) is vested with the
authority to make
decisions regarding the

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- 133 (i) political party, political group, or public's business.
- 134 political caucus; nor (b) "Public body" does not
- 135 (ii) [any] conference committee, rules include any:
- 136 committee, or sifting committee of (i) political party, group, or
- 137 the Legislature. _ caucus; nor
- 138 (8) "Public hearing" means a portion of a meeting in (ii) any conference committee, Add "a portion of" since
- 139 which comments from the public will be rules committee, or sifting public hearings are often a
- 140 accepted. committee of the Legislature. part of an open meeting
- 141 (9) "Public statement" means a statement made in
- 142 the ordinary course of business of the public
- 143 body with the intent that all other members of
- 144 the public body receive it.
- 145 ~~(4)~~ (10) (a) "Quorum" means a simple majority (4) (a) "Quorum" means a simple
- 146 of the membership of a public majority of the membership of a
- 147 body, unless otherwise defined by public body, unless otherwise
- 148 applicable law. defined by applicable law.
- 149 (b) "Quorum" does not include a meeting of (b) "Quorum" does not include a
- 150 two elected officials by themselves when meeting of two elected
- 151 no action, either formal or informal, is officials by themselves when
- 152 taken on a subject over which these no action, either formal or
- 153 elected officials have jurisdiction or informal, is taken on a subject Add "advisory power" for
- 154 advisory power. _ over which these elected consistency

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155 (11) "Recording" means an audio or audio and video
156 record of the proceedings of a meeting that can
157 be used to review the proceedings of the
158 meeting.

officials have jurisdiction.

Add definition of
"Recording"

159

160 Part 2. Meetings

161 **[52-4-3] 52-4-201 . Meetings open to the public --**
162 **Exceptions.**

163 [Every] A meeting is open to the public unless closed
164 [pursuant to] under Sections [52-4-4] 52-4-204, 52-4-
165 205, and [52-4-5] 52-4-206 .

166

167 **[52-4-6] 52-4-202 . Public notice of meetings --**
168 **Emergency meetings .**

169 (1) A public body shall give not less than 24 hours'
170 public notice of each meeting including the
171 meeting:

172 (a) agenda;

173 (b) date;

174 (c) time; and

175 (d) place.

176 (2) (a) [Any] In addition to the requirements

52-4-3. Meetings open to the public --
Exceptions.

Every meeting is open to the public
unless closed pursuant to Sections 52-4-4
and 52-4-5.

52-4-6. Public notice of meetings.

(1) Any public body which holds regular
meetings that are scheduled in
advance over the course of a year
shall give public notice at least once
each year of its annual meeting
schedule as provided in this section.
The public notice shall specify the
date, time, and place of such

Switch Subsection (1) and
(2) with each other to put
most important provision
first

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177 under Subsection (1), a public body
178 which holds regular meetings that are
179 scheduled in advance over the course of
180 a year shall give public notice at least
181 once each year of its annual meeting
182 schedule as provided in this section. _

183 (b) The public notice under Subsection
184 (2)(a) shall specify the date, time, and
185 place of ~~[such]~~ the scheduled meetings.

186 ~~[(2) In addition to the notice requirements of~~
187 ~~Subsection (1) of this section, each public body~~
188 ~~shall give not less than 24 hours' public notice of~~
189 ~~the agenda, date, time and place of each of its~~
190 ~~meetings.]~~

191 (3) Public notice shall be satisfied by:

192 (a) posting written notice at the principal
193 office of the public body, or if no ~~[such]~~
194 principal office exists, at the building
195 where the meeting is to be held; and

196 (b) providing notice to :
197 (i) at least one newspaper of
198 general circulation within the

meetings.

(2) In addition to the notice requirements
of Subsection (1) of this section, each
public body shall give not less than
24 hours' public notice of the agenda,
date, time and place of each of its
meetings.

(3) Public notice shall be satisfied by:

(a) posting written notice at the
principal office of the public
body, or if no such office exists,
at the building where the meeting
is to be held; and

(b) providing notice to at least
one newspaper of general
circulation within the
geographic jurisdiction of the
public body, or to a local
media correspondent.

(4) Public bodies are encouraged to
develop and use electronic means to
post notice in addition to those means

Former Sub (2) moved to
Sub (1)

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199 geographic jurisdiction of the
200 public body~~[:]~~; or
201 (ii) ~~[to]~~ a local media correspondent.
202 (4) ~~[Public bodies are]~~ A public body is encouraged
203 to develop and use electronic means to ~~[post]~~
204 provide notice~~[in addition to those means listed~~
205 ~~in Subsection (3)]~~ of its meetings under
206 Subsection (3)(b).
207 (5) (a) The notice requirement of Subsection (1)
208 may be disregarded if:
209 (i) ~~[When]~~ because of unforeseen
210 circumstances it is necessary for a
211 public body to hold an emergency
212 meeting to consider matters of an
213 emergency or urgent nature~~[, the~~
214 ~~notice requirements of Subsection~~
215 ~~(2) may be disregarded]~~; and _
216 (ii) the best notice practicable is
217 given._
218 (b) ~~[No such]~~ An emergency meeting of a
219 public body ~~[shall]~~ may not be held
220 unless_:

listed in Subsection (3).
(5) When because of unforeseen
circumstances it is necessary for a
public body to hold an emergency
meeting to consider matters of an
emergency or urgent nature, the
notice requirements of Subsection (2)
may be disregarded and the best
notice practicable given. No such
emergency meeting of a public body
shall be held unless an attempt has
been made to notify all of its
members and a majority votes in the
affirmative to hold the meeting.

Clarify use of electronic
means for providing public
notice of meetings

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221 _____ (i) an attempt has been made to
222 notify all of its members; and _

223 _____ (ii) a majority of its members
224 approves holding [votes in the
225 affirmative to hold] the meeting.

227 ~~[52-4-7]~~ **52-4-203 . Minutes of open meetings --**
228 **Public records -- Recording of meetings.**

229 (1) Written minutes or a [digital or tape] recording
230 shall be kept of all open meetings. [Such] The
231 minutes or [a digital or tape] recording shall
232 include:

- 233 (a) the date, time, and place of the meeting;
234 (b) the names of members present and
235 absent;
236 (c) the substance of all matters proposed,
237 discussed, or decided[, and] _

238 _____ (d) a record, by individual member, of votes
239 taken;

240 ~~[(d)]~~ (e) the [names of all citizens who
241 appeared] name of each person
242 who provided testimony and the

52-4-7. Minutes of open meetings --
Public records -- Recording of
meetings.

- (1) Written minutes or a digital or tape
recording shall be kept of all open
meetings. Such minutes or a digital
or tape recording shall include:
(a) the date, time, and place of the
meeting;
(b) the names of members present
and absent;
(c) the substance of all matters
proposed, discussed, or decided,
and a record, by individual
member, of votes taken;
(d) the names of all citizens who

Delete "digital or tape"
mode of recording does
not need to be specified;
one or both may become
out-dated

Substitute "person" for
"citizen" citizenship is
typically not checked at

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243	substance in brief of their	appeared and the substance in	open meetings
244	testimony; and	brief of their testimony; and	
245	[(e)] (f) any other information that any	(e) any other information that any	
246	member requests be entered in	member requests be entered in the	
247	the minutes <u>or recording</u> .	minutes.	
248	[(2) Except as provided in Section 52-4-7.5, written	(2) Except as provided in Section	Former Sub (2) moved to
249	minutes or a digital or tape recording shall be	52-4-7.5, written minutes or a digital	closed meeting provisions
250	kept of all closed meetings. Such minutes or	or tape recording shall be kept of all	(see new Subsection 52-2-
251	digital or tape recording shall include:	closed meetings. Such minutes or	206(3)
252	— (a) the date, time, and place of the meeting;	digital or tape recording shall	
253	— (b) the names of members present and	include:	
254	absent; and	(a) the date, time, and place of the	
255	— (c) the names of all others present except	meeting;	
256	where such disclosure would infringe on	(b) the names of members present	
257	the confidence necessary to fulfill the	and absent; and	
258	original purpose of closing the meeting:]	(c) the names of all others present	
259	[(3)] (2) (a) The minutes and recordings of an	except where such disclosure	Clarify Sub (2) applies to
260	<u>open meeting</u> are public records	would infringe on the confidence	open meeting not closed
261	and shall be available within a	necessary to fulfill the original	ones
262	reasonable time after the meeting. _	purpose of closing the meeting.	
263	(b) <u>[A] An open</u> meeting record kept only by	(3) The minutes and recordings are	<input type="checkbox"/> Substantive Issue --
264	a <u>[digital or tape]</u> recording must be	public records and shall be available	should recording

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265	converted to written minutes within a	within a reasonable time after the	always be converted to
266	reasonable time upon request.	meeting. A meeting record kept only	minutes upon request?
267	[(4)] (3)	All or any part of an open meeting may	by a digital or tape recording must be
268	be <u>independently</u> recorded by any	converted to written minutes within a	
269	person in attendance [-; provided] <u>if</u> [-] the	reasonable time upon request.	
270	recording does not interfere with the	(4) All or any part of an open meeting	
271	conduct of the meeting.	may be recorded by any person in	
272	[(5)] (4)	attendance; provided, the recording	Clarify Sub 4 applies to
273	Minutes <u>or recordings</u> of [meetings that	does not interfere with the conduct of	open meetings and
274	<u>are]</u> <u>an open meeting that is</u> required to	the meeting.	provide a new duplicate
275	be retained permanently shall be	(5) Minutes of meetings that are required	subsection that applies to
276	maintained in or converted to a format	to be retained permanently shall be	closed meetings (see
277	that meets long-term records storage	maintained in or converted to a	Subsection 52-4-206(3))
278	requirements.	format that meets long-term records	
279	Written minutes or [digital or tape]	storage requirements.	
280	recordings [shall be] <u>of open meetings</u>	(6) Written minutes or digital or tape	
281	<u>are</u> public records [pursuant to] <u>under</u>	recordings shall be public records	
282	Title 63, Chapter 2, Government Records	pursuant to Title 63, Chapter 2,	
283	Access and Management Act, but only	Government Records Access and	
284	written minutes shall be evidence of the	Management Act, but only written	
285	official action taken at [such] <u>the</u>	minutes shall be evidence of the	
286	meeting.	official action taken at such meeting.	

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287

288 ~~[52-4-4]~~ **52-4-204**. Closed meeting held upon vote
289 of members -- Business -- Reasons for meeting
290 recorded.

291 (1) A closed meeting may be held :

292 (a) if a quorum is present; and

293 (b) ~~[upon the affirmative vote of]~~ two-thirds
294 of the members of the public body
295 present at an open meeting for which
296 notice is given ~~[pursuant to]~~ under
297 Section ~~[52-4-6]~~ 52-4-202 vote to
298 approve closing the meeting ~~;~~ and
299 ~~provided, a quorum is present~~.

300 (2) ~~[No]~~ A closed meeting is not allowed ~~[except~~
301 ~~as to matters]~~ unless each matter discussed in
302 the closed meeting is permitted ~~[exempted]~~
303 under Section ~~[52-4-5]~~ 52-4-205 ~~;~~ ~~provided, no]~~
304 .

305 (3) An ordinance, resolution, rule, regulation,
306 contract, or appointment ~~[shall]~~ may not be
307 approved at a closed meeting. _

308 (4) The following information shall be entered on

52-4-4. Closed meeting held upon vote
of members -- Business -- Reasons for
meeting recorded.

A closed meeting may be held upon the
affirmative vote of two-thirds of the
members of the public body present at an
open meeting for which notice is given
pursuant to Section 52-4-6; provided, a
quorum is present. No closed meeting is
allowed except as to matters exempted
under Section 52-4-5; provided, no
ordinance, resolution, rule, regulation,
contract, or appointment shall be
approved at a closed meeting. The reason
or reasons for holding a closed meeting
and the vote, either for or against the
proposition to hold such a meeting, cast
by each member by name shall be entered
on the minutes of the meeting.
Nothing in this chapter shall be construed
to require any meeting to be closed to the

Clarify that a quorum must
be present in an open
meeting in order to vote to
hold a closed meeting

"May not" is standard legal
drafting language and is
stronger than "shall not"

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309 the minutes of the open meeting at which the public.
310 closed meeting was approved:

311 (a) [The] the reason or reasons for holding Simplify language
312 [a] the closed meeting; and _
313 (b) the vote by name, of each member of
314 the public body, either for or against the
315 [proposition] motion to hold [such-a] the
316 closed meeting[, ~~cast by each member~~
317 ~~by name shall be entered on the minutes~~
318 of the meeting].

319 (5) Nothing in this chapter shall be construed to
320 require any meeting to be closed to the public.
321

322 ~~[52-4-5] 52-4-205 .~~ **Purposes of closed meetings [--**
323 ~~**Chance meetings and social meetings excluded --**~~
324 ~~**Disruption of meetings.]**~~

325 (1) ~~[(a)]~~ A closed meeting ~~[may be held pursuant~~
326 ~~to] described under~~ Section ~~[52-4-4] 52-~~
327 ~~4-204 [for any of the following purposes]~~
328 may only be held for:
329 ~~[(+)] (a)~~ discussion of the character,
330 professional competence,

52-4-5. Purposes of closed meetings --
Chance meetings and social meetings
excluded -- Disruption of meetings.

(1) (a) A closed meeting may be held
pursuant to Section 52-4-4 for any
of the following purposes:
(i) discussion of the character,
professional competence, or
physical or mental health of

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331		or physical or mental health	an individual;	
332		of an individual;	(ii) strategy sessions to discuss	
333	[(ii)] <u>(b)</u>	strategy sessions to discuss	collective bargaining;	
334		collective bargaining;	(iii) strategy sessions to	
335	[(iii)] <u>(c)</u>	strategy sessions to discuss	discuss pending or	
336		pending or reasonably	reasonably imminent	
337		imminent litigation;	litigation;	
338	[(iv)] <u>(d)</u>	strategy sessions to discuss	(iv) strategy sessions to	
339		the purchase, exchange, or	discuss the purchase,	
340		lease of real property	exchange, or lease of real	
341		[when] <u>if</u> public discussion	property when public	Use "if" instead of "when"
342		of the transaction would :	discussion of the	
343	<u>(i)</u>	disclose the appraisal or	transaction would disclose	
344		estimated value of the	the appraisal or estimated	
345		property under	value of the property	
346		consideration <u>:</u> or <u>-</u>	under consideration or	
347	<u>(ii)</u>	prevent the public body	prevent the public body	
348		from completing the	from completing the	
349		transaction on the best	transaction on the best	
350		possible terms;	possible terms;	
351	[(v)] <u>(e)</u>	strategy sessions to discuss	(v) strategy sessions to discuss	
352		the sale of real property[the sale of real property	

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353 ~~when:~~ when:

354 ~~(A)~~] if:

355 (i) public discussion of the

356 transaction would _:

357 (A) disclose the

358 appraisal or

359 estimated value of

360 the property under

361 consideration _; or _

362 (B) prevent the public

363 body from completing

364 the transaction on

365 the best possible

366 terms;

367 [(B)] (ii) the public body [had]

368 previously [given]

369 ~~gave~~ public notice

370 that the property

371 would be offered for

372 sale; and

373 [(E)] (iii) the terms of the sale

374 are publicly disclosed

(A) public discussion of
the transaction would
disclose the appraisal
or estimated value of
the property under
consideration or
prevent the public
body from completing
the transaction on the
best possible terms;

(B) the public body had
previously given
public notice that the
property would be
offered for sale; and

(C) the terms of the sale
are publicly disclosed
before the public body
approves the sale;

(vi) discussion regarding
deployment of security

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375		before the public	personnel, devices, or	
376		body approves the	systems;	
377		sale;	(vii) investigative proceedings	
378	[(vi)] (f)	discussion regarding	regarding allegations of	
379		deployment of security	criminal misconduct; and	
380		personnel, devices, or	(viii) discussion by a county	
381		systems;	legislative body of	
382	[(vii)] (g)	investigative proceedings	commercial information as	
383		regarding allegations of	defined in Section	
384		criminal misconduct; and	59-1-404.	
385	[(viii)] (h)	discussion by a county		
386		legislative body of		
387		commercial information as		
388		defined in Section 59-1-404.		
389	[(b)] (2)	A public body may not interview a	(b) A public body may not	
390		person applying to fill an elected	interview a person applying to	
391		position in a closed meeting.	fill an elected position in a	
392	[(c)] (3)	Nothing in this section may be	closed meeting.	<input type="checkbox"/> Potentially substantive
393		construed to require any public	(c) Nothing in this section may be	Issue -- Is this
394		body to approve the purchase,	construed to require any public	Subsection (3)
395		sale, exchange, or lease of real	body to approve the purchase,	needed?
396		property if that public body is not	sale, exchange, or lease of real	

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397 required to approve the purchase,
398 sale, exchange, or lease of real
399 property under other laws.

400 ~~[(2) This chapter shall not apply to any chance~~
401 ~~meeting or a social meeting. No chance~~
402 ~~meeting or social meeting shall be used to~~
403 ~~circumvent this chapter.~~

404 ~~(3) This chapter shall not prohibit the removal of~~
405 ~~any person who willfully disrupts a meeting to~~
406 ~~the extent that orderly conduct is seriously~~
407 ~~compromised.]~~

412 ~~[52-4-7.5]~~ **52-4-206 . Record of closed meetings.**

413 ~~[(1) If a public body closes a meeting to discuss the~~
414 ~~character, professional competence, or physical~~
415 ~~or mental health of an individual under~~
416 ~~Subsection 52-4-5(1)(a)(i) or to discuss the~~
417 ~~deployment of security personnel, devices, or~~
418 ~~systems under Subsection 52-4-5(1)(a)(vi), the~~

property if that public body is not
required to approve the purchase,
sale, exchange, or lease of real
property under other laws.

(2) This chapter shall not apply to any
chance meeting or a social meeting.
No chance meeting or social meeting
shall be used to circumvent this
chapter.

(3) This chapter shall not prohibit the
removal of any person who willfully
disrupts a meeting to the extent that
orderly conduct is seriously
compromised.

52-4-7.5. Record of closed meetings.

(1) If a public body closes a meeting to
discuss the character, professional
competence, or physical or mental
health of an individual under
Subsection 52-4-5(1)(a)(i) or to
discuss the deployment of security

Former Subsections (2)
and (3) moved to own
Sections 52-4-208 and 52-
4-301 respectively

Move former Sub (1)
provisions to Sub (5) and
simplify language in new
Sub (1)

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419 ~~person presiding shall sign a sworn statement~~
420 ~~affirming that the sole purpose for closing the~~
421 ~~meeting was to discuss:~~
422 ~~(a) the character, professional competence,~~
423 ~~or physical or mental health of an~~
424 ~~individual; or~~
425 ~~(b) the deployment of security personnel,~~
426 ~~devices, or systems.]~~
427 ~~[(2)] (1)~~ (a) ~~[If]~~ Except as provided under
428 Subsection (5), if a public body
429 closes a meeting under
430 Subsection ~~[52-4-5(1)]~~ 52-4-205(1)
431 ~~[for any purpose other than to~~
432 ~~discuss the character, professional~~
433 ~~competence, or physical or mental~~
434 ~~health of an individual or to~~
435 ~~discuss the deployment of security~~
436 ~~personnel, devices, or systems],~~
437 the public body shall :
438 (i) ~~[either tape record]~~ make a
439 recording of the closed portion of
440 the meeting : or _

personnel, devices, or systems under
Subsection 52-4-5(1)(a)(vi), the
person presiding shall sign a sworn
statement affirming that the sole
purpose for closing the meeting was
to discuss:

(a) the character, professional
competence, or physical or mental
health of an individual; or
(b) the deployment of security
personnel, devices, or
systems.

(2) (a) If a public body closes a meeting
under Subsection 52-4-5(1) for
any purpose other than to discuss
the character, professional
competence, or physical or mental
health of an individual or to
discuss the deployment of
security personnel, devices, or
systems, the public body shall
either tape record the closed

Lead section with most
important and most
general provision

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441 (ii) keep detailed written minutes that
442 disclose the content of the closed
443 portion of the meeting.

444 ~~[(2) Except as provided in Section 52-4-7.5, written~~
445 ~~minutes or a digital or tape recording shall be~~
446 ~~kept of all closed meetings.]~~

447 (2) The minutes or recording of a closed meeting
448 shall include:

449 (a) the date, time, and place of the meeting;

450 (b) the names of members present and
451 absent; and

452 (c) the names of all others present except
453 where the disclosure would infringe on
454 the confidentiality necessary to fulfill the
455 original purpose of closing the meeting.

456 (3) Minutes or recordings of a closed meeting that
457 is required to be retained permanently shall be
458 maintained in or converted to a format that
459 meets long-term records storage requirements.

460 ~~[(b)]~~ (4) ~~[(f)]~~ [Tape recordings] Both a
461 recording and written
462 minutes of closed meetings

portion of the meeting or keep
detailed written minutes that
disclose the content of the closed
portion of the meeting.

(b) (i) Tape recordings and
written minutes of closed
meetings are protected
records under Title 63,
Chapter 2, Government
Records Access and
Management Act, and any
person who violates the
provisions of Section
63-2-801 is subject to the
criminal penalties
contained in that section.

(ii) Notwithstanding the
provisions of Subsection
63-2-202(4)(c), tape
recordings and written
minutes of closed meetings,
as protected records, may be

□ Substantive Issue --
what is "detailed"
minutes of closed
meetings and how
does it compare with
the detail of open
meeting minutes? (see
Legislative Audit 2005-
08 Findings p. 14)

Sub (2) moved from
former Subsection 52-4-
7(2) with closed meeting
provisions

Sub (3) duplicate provision
from Subsection 52-4-
203(4) applicable to open
meetings

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are protected records under disclosed pursuant to a court
Title 63, Chapter 2, order only as provided in
Government Records Section 52-4-10.
Access and Management
Act[, and any person who
violates the provisions of
Section 63-2-801 is subject
to the criminal penalties
contained in that section.

(ii) Notwithstanding the provisions of
Subsection 63-2-202(4)(c), tape
recordings and written minutes of
closed meetings, as protected]
except that the records, may be
disclosed [pursuant to] under a
court order only as provided [in]
under Section [52-4-10] 52-4-304

(5) If a public body closes a meeting exclusively for
the purposes described under Subsection 52-4-
205(1)(a) or Subsection 52-4-205(1)(f):
(a) the person presiding shall sign a sworn

Sub 5 new language
moved from former Sub
(1)

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statement affirming that the sole purpose
for closing the meeting was to discuss the
purposes described under Subsection 52-
4-205(1)(a) or Subsection 52-4-205(1)(f);
and

(b) the provisions of Subsection (1) of this
section do not apply.

~~[52-4-7.8]~~ **52-4-207 . Electronic meetings --** **Authorization -- Requirements.**

~~[(1) As used in this section:~~

~~(a) "Anchor location" means the physical~~
~~location from which the electronic~~
~~meeting originates or from which the~~
~~participants are connected.~~

~~(b) "Electronic meeting" means a public~~
~~meeting convened or conducted by~~
~~means of a telephonic,~~
~~telecommunications, or computer~~
~~conference.~~

~~(c) "Electronic notice" means electronic mail~~
~~or fax.~~

52-4-7.8. Electronic meetings -- **Authorization -- Requirements.**

(1) As used in this section:

(a) "Anchor location" means the
physical location from which the
electronic meeting originates or
from which the participants are
connected.

(b) "Electronic meeting" means a
public meeting convened or
conducted by means of a
telephonic,
telecommunications, or
computer conference.

Move definitions to main
definitions Section 52-4-
103

Delete "Electronic notice"
definition -- only used once
and is not needed

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- 507 ~~(d) "Monitor" means to:~~
- 508 ~~(i) hear, live, by speaker, or by other~~
- 509 ~~equipment, all of the public~~
- 510 ~~statements of each member of the~~
- 511 ~~public body who is participating in~~
- 512 ~~a meeting; or~~
- 513 ~~(ii) see, by computer screen or other~~
- 514 ~~visual medium, all of the public~~
- 515 ~~statements of each member of the~~
- 516 ~~public body who is participating in~~
- 517 ~~a meeting.~~
- 518 ~~(e) "Participate" means the ability to~~
- 519 ~~communicate with all of the members of a~~
- 520 ~~public body, either verbally or~~
- 521 ~~electronically, so that each member of the~~
- 522 ~~public body can hear or see the~~
- 523 ~~communication.~~
- 524 ~~(f) "Public hearing" means a meeting at~~
- 525 ~~which comments from the public will be~~
- 526 ~~accepted.~~
- 527 ~~(g) "Public statement" means a statement~~
- 528 ~~made in the ordinary course of business~~

- (c) "Electronic notice" means
electronic mail or fax.
- (d) "Monitor" means to:
- (i) hear, live, by speaker, or by
other equipment, all of the
public statements of each
member of the public body
who is participating in a
meeting; or
- (ii) see, by computer screen or
other visual medium, all of
the public statements of each
member of the public body
who is participating in a
meeting.
- (e) "Participate" means the ability to
communicate with all of the
members of a public body, either
verbally or electronically, so that
each member of the public body
can hear or see the
communication.

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529 of the public body with the intent that all
530 other members of the public body receive
531 it.]

532 [(2)] (1) A public body may[, by following the
533 procedures and requirements of this
534 section,] convene and conduct an
535 electronic meeting in accordance with this
536 section.

537 [(3)] (2) [Each] A public body [convening or
538 conducting] that convenes or conducts
539 an electronic meeting shall:

540 (a) give public notice of the meeting
541 [pursuant to] in accordance with Section
542 [52-4-6] 52-4-202 by:

543 (i) posting written notice at the anchor
544 location; and

545 (ii) providing written or electronic
546 notice to:

547 (A) at least one newspaper of
548 general circulation within

549 the state; and

550 (B) to a local media

(f) "Public hearing" means a meeting
at which comments from the
public will be accepted.

(g) "Public statement" means a
statement made in the
ordinary course of business of
the public body with the
intent that all other members
of the public body receive it.

(2) A public body may, by following the
procedures and requirements of this
section, convene and conduct an
electronic meeting.

(3) Each public body convening or
conducting an electronic meeting
shall:

(a) give public notice of the meeting
pursuant to Section 52-4-6 by:

(i) posting written notice at the
anchor location; and

(ii) providing written or
electronic notice to:

□ Possibly substantive
issue -- should public
notice requirements for
electronic meetings be the
same as other open
meetings?

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- 551 correspondent;
- 552 (b) in addition to giving public notice required
- 553 by Subsection ~~[(3)]~~ (2) (a), provide:
- 554 (i) notice of the electronic meeting to
- 555 the members of the public body at
- 556 least 24 hours before the meeting
- 557 so that they may participate in and
- 558 be counted as present for all
- 559 purposes, including the
- 560 determination that a quorum is
- 561 present; and
- 562 (ii) a description of how the members
- 563 will be connected to the electronic
- 564 meeting;
- 565 (c) establish written procedures governing
- 566 the electronic meeting at which one or
- 567 more members of a public body are
- 568 participating by means of ~~[a telephonic or~~
- 569 ~~telecommunications conference]~~ a
- 570 conference using electronic
- 571 communications ;
- 572 (d) establish one or more anchor locations
- (A) at least one newspaper
- of general circulation
- within the state; and
- (B) to a local media
- correspondent;
- (b) in addition to giving public
- notice required by Subsection
- (3)(a), provide:
- (i) notice of the electronic
- meeting to the members of
- the public body at least 24
- hours before the meeting so
- that they may participate in
- and be counted as present for
- all purposes, including the
- determination that a quorum
- is present; and
- (ii) a description of how the
- members will be connected to
- the electronic meeting;
- (c) establish written procedures
- governing the electronic meeting
- Replace telephonic and

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573 for the public meeting, at least one of
574 which is in the building and [city] political
575 subdivision where the public body would
576 normally meet if they were not holding an
577 electronic meeting;

578 (e) provide space and facilities at the anchor
579 location so that interested persons and
580 the public may attend and monitor the
581 open portions of the meeting; and
582 (f) if the meeting [is] includes a public
583 hearing, provide space and facilities at
584 the anchor location so that interested
585 persons and the public may attend,
586 monitor, and participate in the open
587 portions of the meeting.

588 [(4)] (3) Compliance with the provisions of this
589 section by a public body constitutes full
590 and complete compliance by the public
591 body with the corresponding provisions of
592 Sections [52-4-3] 52-4-201 and [52-4-6]
593 52-4-202.

594 52-4-208. Chance or social meetings.

at which one or more members of telecommunications with
a public body are participating by electronic
means of a telephonic or
telecommunications conference;

(d) establish one or more anchor
locations for the public
meeting, at least one of which
is in the building and city
where the public body would
normally meet if they were
not holding an electronic
meeting;

(e) provide space and facilities at the
anchor location so that interested
persons and the public may attend
and monitor the open portions of
the meeting; and

(f) if the meeting is a public hearing,
provide space and facilities at the
anchor location so that interested
persons and the public may
attend, monitor, and participate in

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595 (1) This chapter does not apply to any chance
596 meeting or a social meeting.

597 (2) A chance meeting or social meeting may not
598 be used to circumvent the provisions of this
599 chapter.

600 Part 3. Enforcement

601 52-4-301. Disruption of meetings.

602 This chapter does not prohibit the removal of any
603 person from a meeting, if the person willfully disrupts
604 the meeting to the extent that orderly conduct is
605 seriously compromised.

606 [52-4-8] 52-4-302. Suit to void final action -- 607 Limitation -- Exceptions.

608 (1) Any final action taken in violation of [Sections
609 52-4-3 and 52-4-6] Section 52-4-201, 52-4-202,
610 or 54-4-207 is voidable by a court of competent
611 jurisdiction.

612 (2) [Suit] Except as provided under Subsection (3),
613 a suit to void final action shall be commenced
614 within 90 days after the date of the action.

615 (3) A suit to void final action [except that with
616 respect to any final action] concerning the

the open portions of the meeting.

(4) Compliance with the provisions of
this section by a public body
constitutes full and complete
compliance by the public body with
the corresponding provisions of
Sections 52-4-3 and 52-4-6.

New section formerly
Subsection 52-4-5(2)

New section formerly
Subsection 52-4-5(3)

52-4-8. Suit to void final action -- Limitation -- Exceptions.

Any final action taken in violation of
Sections 52-4-3 and 52-4-6 is voidable by
a court of competent jurisdiction. Suit to
void final action shall be commenced
within 90 days after the action except that
with respect to any final action
concerning the issuance of bonds, notes,
or other evidences of indebtedness suit
shall be commenced within 30 days after

Add numbering

Add "date of the" for clarity

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617 issuance of bonds, notes, or other evidences of the action.
618 indebtedness ~~[suit]~~ shall be commenced within
619 30 days after the date of the action.

Add "date of the" for clarity

620
621 ~~[52-4-9]~~ **52-4-303 . Enforcement of chapter -- Suit**
622 **to compel compliance.**

- 623 (1) The attorney general and county attorneys of
624 the state shall enforce this chapter.
625 (2) A person denied any right under this chapter
626 may commence suit in a court of competent
627 jurisdiction to :
628 (a) compel compliance with or enjoin
629 violations of this chapter : or
630 (b) ~~[-to]~~ determine ~~[its]~~ the chapter's
631 applicability to discussions or decisions of
632 a public body. .

- 633 (3) The court may award reasonable attorney fees
634 and court costs to a successful plaintiff.

635
636 ~~[52-4-10]~~ **52-4-304 . Action challenging closed**
637 **meeting.**

- 638 (1) Notwithstanding the procedure established ~~[in]~~

52-4-9. Enforcement of chapter -- Suit
to compel compliance.

- (1) The attorney general and county
attorneys of the state shall enforce
this chapter.
(2) A person denied any right under this
chapter may commence suit in a
court of competent jurisdiction to
compel compliance with or enjoin
violations of this chapter or to
determine its applicability to
discussions or decisions of a public
body. The court may award
reasonable attorney fees and court
costs to a successful plaintiff.

52-4-10. Action challenging closed
meeting.

- (1) Notwithstanding the procedure

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639 under Subsection 63-2-202(7), in any action
640 brought under the authority of this chapter to
641 challenge the legality of a closed meeting held
642 by a public body, the court shall:
643 (a) review the [tape] recording or written
644 minutes of the closed meeting in camera;
645 and
646 (b) decide the legality of the closed meeting.
647 (2) (a) If the judge determines that the public
648 body did not violate [the law governing]
649 Section 52-4-204, 52-4-205, or 52-4-206
650 regarding closed meetings, the judge
651 shall dismiss the case without disclosing
652 or revealing any information from the tape
653 recording or minutes of the closed
654 meeting.
655 (b) If the judge determines that the public
656 body violated [the law governing] Section
657 52-4-204, 52-4-205, or 52-4-206
658 regarding closed meetings, the judge
659 shall publicly disclose or reveal from the
660 [tape] recordings or minutes of the closed

established in Subsection
63-2-202(7), in any action brought
under the authority of this chapter to
challenge the legality of a closed
meeting held by a public body, the
court shall:

(a) review the tape recording or
written minutes of the closed
meeting in camera; and
(b) decide the legality of the
closed meeting.

(2) (a) If the judge determines that the
public body did not violate the
law governing closed meetings,
the judge shall dismiss the case
without disclosing or revealing
any information from the tape
recording or minutes of the closed
meeting.
(b) If the judge determines that the
public body violated the law
governing closed meetings, the judge
shall publicly disclose or reveal from

Specify applicable section
numbers

Specify applicable section
numbers

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661 meeting all information about the portion
662 of the meeting that was illegally closed.

663

664 X:\XFER\INT\2005\00001491.wpd

the tape recordings or minutes of the
closed meeting all information about
the portion of the meeting that was
illegally closed.